(1)

(03)

Single Bench

IN THE HIGH COURT OF JUDICATURE AT BILASPUR (C.G.)

CRIMINAL REVISION 183/06

(123/06)

Filed on 24/3/06
by Shri Neeta Mehta Advocate
24/3/06
R. to D.

APPLICANT : Saroj Jaishwal S/o Foolchand Jaishwal, age about 35 years, Occupation-Business] R/o- Sanjay Nagar Colony, Paharia, P.S. Cant Varanashi.

VERSUS

RESPONDENT : State of Chhattisgarh. Through P.S. Ambikapur, Distt.- Surguja (C.G.)

CRIMINAL REVISION U/S 397/401 OF CODE OF CRIMINAL PROCEDURE

XI-HC-22

(36)

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक Cr.Rev. 183/2006 सन् 200

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	10.05.2006 Shri Neeraj Mehta, counsel for the applicant. Shri Ashish Shukla, G.A. for State. Heard on I.A. No. 902/2006 for taking documents on record. Considered and allowed. Not opposed. At the request of the counsel for the parties, this revision is being heard finally today, at the stage of admission. Heard. This revision is directed against the order dated 18.1.2006 passed by shri P.K.Shrivastava, learned Sessions Judge, Ambikapur, Distt. Surguja in Session Trial No. 305/2004 whereby the application for release of 'Victor' motorcycle bearing No. UP o65 U-8009 on Supurtnama was dismissed. Learned counsel for the applicant has drawn my attention to the final report whereby it is not shown that the aforesaid vehicle was used for the commission of offence. He also argued that the 'Bolero' vehicle alleged to have been used for the commission of the offence has already been released on Supurtnama vide order dated 16.9.2004 passed by the First Additional Session Judge, Ambikapur in S.T. No. 305/2004. He also relied upon and placed the order dated 16.10.2004 which was taken on record. It was argued that the impugned order is contrary to the dictum laid by the Apex Court in *Sunderlal Ambalal Desai Vs. State of Gujrat* reported in **2002 AIR SCW 5301** wherein it was held that powers under Section 451 Cr.P.C. should be exercised expeditiously and judiciously and the seized articles should not be kept locked for a long time in a police station, in any case, for more than 15 days to one month. On the other	

[पीछे देखिये

(37)

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

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hand, Shri Ashish Shukla, counsel appearing for the State opposed the application.

Having considered the rival contentions and the submission that the final report does not show that the aforesaid vehicle was used in commission of offence of the crime and that the 'Bolero' vehicle alleged to have been used in the commission of offence has already been released on Supurtnama, rejection of the prayer for releasing the 'Victor' motorcycle on Supurtnama of its owner is clearly contrary to law and deserves to be set aside in the exercise of the revisional jurisdiction.

In the result, this revision is allowed. It is ordered that if the applicant furnishes a personal bond for Rs. 50,000/- along with a solvent surety in like amount to the satisfaction of the trial Court, Ambikapur, the seized ~~motorcycle~~ 'Victor' motorcycle bearing No. UP 065 U-8009 shall be returned on Supurtnama of the applicant upon the following conditions.

A/ That the applicant shall not in any manner alter the appearance of the motorcycle.

B/ That the applicant shall not transfer or deliver the possession of the vehicle even temporarily to any other person.

C/ That the coloured photographs of the motorcycle so as to clearly aid in its identification shall be taken at the cost of the applicant before returning it on Supurtnama.

D/ That the applicant shall produce the vehicle as and when required before the trial Court during evidence.

Sd-/
Dilip Raosaheb Deshmukh
Judge

Priya

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